



2025:DHC:7166



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 22.08.2025

+ **C.A.(COMM.IPD-TM) 18/2025, I.A. 9131/2025 & I.A. 9132/2025**

GOODVIEW FASHION PRIVATE LIMITEDAppellant

versus

THE REGISTRAR OF TRADE MARKSRespondent

Advocates who appeared in this case

For the Appellant : Ms. Priya Adlakha and Ms. Sucharu Garg,
Advocates.

For the Respondent : Ms. Nidhi Raman, CGSC with Mr. Arnav
Mittal, GP; Mr. Om Ram and Mr. Mayank
Sasanwal, Advocates for R1/ UoI.

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

1. The present Appeal has been filed by the Appellant under Section 91 of the Trade Marks Act, 1999 ('Act') read with Rule 156 of the Trade Marks Rules, 2017, challenging the order dated 31.12.2024 ('**Impugned Order**') passed by the Respondent in Petitioner's Application No. 5292417 in Class 42 ("**Application**").



FACTUAL BACKGROUND:

2. The Appellant is a fashion label company duly incorporated under the Companies Act, 1956. The Appellant took over the Tarun Tahiliani Design Studio, which was initially founded by Mr. Tarun Tahiliani, who is the Appellant's creative director, as a proprietary concern in 1990.

3. Mr. Tarun Tahiliani has had a presence in the world fashion industry since September, 1994 and has been awarded with various awards in the industry. The Appellant operates its designer stores in some of the major metro cities in India, offering luxury apparels and accessories under the label 'Tarun Tahiliani'. The Appellant's products and details related to its brand are also available on its website 'taruntahiliani.com', which is accessible to people all around the world. The Appellant has collaborated with various renowned celebrities to promote its brand.



4. The Appellant adopted the Trade Mark ' **II** ' ('**Tarun Tahiliani logo**') which is an artistic representation of the Appellant's brand/label 'Tarun Tahiliani', in respect of its goods and services in the year 2018. Tarun Tahiliani logo is used in the Appellant's designer stores, apparels, accessories, website icon and display icon on all its social media accounts.

5. Tarun Tahiliani logo already stands registered in favour of the Appellant in India in Classes 3, 24 and 25 since 2018, and it has earned significant goodwill and reputation amongst the members of the trade and general public, which is reflected in its significant social media following. The said logo has become the source identifier for the Appellant's goods and services, and is linked with Mr. Tarun Tahiliani's personal brand.



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6. The Appellant claims that the Trade Mark in question ‘’ (‘Pi



logo’) is a variant of the Appellant’s Tarun Tahiliani logo ‘’, and is being used extensively and continuously by the Appellant in respect of its goods and services.

7. In order to obtain statutory protection on the Pi logo, the Appellant filed the Application for the registration of the said Mark in Class 42 on a ‘proposed to be used’ basis. The Respondent issued an Examination Report dated 21.02.2022 raising an objection under Section 9(1)(a) of the Act. The Appellant filed its response dated 19.03.2022 to the said Examination Report requesting the waiver of the objection raised under Section 9(1)(a).

8. Thereafter, the Application was scheduled for hearing before the Respondent on 31.12.2024, pursuant to which the Impugned Order was passed by the Respondent refusing the Application, while upholding the objection raised under Section 9(1)(a) of the Act. Hence, the present Appeal has been filed before this Court.

SUBMISSIONS ON BEHALF OF THE APPELLANT:

9. The learned Counsel for the Appellant submitted that the Impugned Order is arbitrary and perverse as it is based on an unsubstantiated



assumption that the Pi logo ‘’ is a common surname/personal name.

10. It was submitted that the Pi logo is inherently distinctive and not hit by Section 9(1)(a) of the Act, as the bar under thereunder pertains to those



marks, which are devoid of any distinctive character such that they are not capable of distinguishing the goods or services of one person from those of another person. It was further submitted that any finding of ‘non-distinctiveness’ needs to be preceded by specific reference to other uses of the same mark by third parties and such a finding cannot be returned, if it is used only by one person.

11. The learned Counsel for the Appellant submitted that the Pi logo is a mere variation of its existing registered Trade Mark – Tarun Tahiliani logo

‘**II**’, and adopted by the Appellant in an honest and *bona fide* manner. It was further submitted that it is a unique and distinctive Mark, which is exclusively associated with the Appellant’s goods and services.

12. The learned Counsel for the Appellant submitted that the Impugned Order has not considered the factum of the Appellant’s Pi logo being already registered in Classes 18 and 41, while it is also published in various other Classes on a ‘proposed to be used’ basis.

13. In view of the foregoing submissions, it was prayed that the Impugned Order be quashed and set aside and Application be directed to proceed for advertisement and, thereafter, be proceeded in accordance with the Act and the Trade Marks Rules, 2017 (“**Rules**”).

SUBMISSIONS ON BEHALF OF THE RESPONDENT:

14. The learned CGSC for the Respondent, on instructions, submitted that if this Court deems fit, the Application may be remanded back for deciding afresh.



ANALYSIS AND FINDINGS:

15. The Impugned Order passed by the Respondent refused the Appellant's Application No. 5292417 for the registration of the Pi logo in Class 42. The relevant extract from the Impugned Order is reproduced as under:

“The mark applied for registration is objectionable under S 9(1)(a) of the Trade Marks Act 1999, as it is devoid of any distinctive character, that is to say, not capable of distinguishing the goods or services of one person from those of another person because it is a common surname/personal name/...

After perusal of all the documents on record and submission made by the applicant / authorised agent, it is concluded that applied mark is not registrable because of the reason stated as above. Hence application no 5292417 cannot be accepted and refused accordingly.”

16. The central issue for this Court's determination is whether the Respondent was correct in refusing the Appellant's Application on the ground that the Pi logo was devoid of any distinctive character.

17. In ***Abu Dhabi Global Market v. Registrar of Trademarks***, 2023 SCC OnLine Del 2947, this Court has held that:

*“25. A finding of lack of distinctiveness must be preceded, in view of Section 9(1)(a), by a finding that the mark in question is incapable of distinguishing the goods or services, in respect of which it is registered, from goods or services of another. One may envisage, for example, marks which consist solely of common English words with no distinctive character, as falling within this category (though even such marks would be entitled to registration if the proviso to Section 9(1) applies to them). Otherwise, quite frankly, capability to act as a marker to distinguish the goods and services of one from another being the sole criterion which is, statutorily, to be taken into consideration while assessing “distinctiveness”, it is difficult to conceive of any mark, which is not in common use by others, as being found to lack in distinctiveness. Albeit in the context of Section 9(3) of the Trade & Merchandise Marks Act, 1958, this Court, in *Mohd Rafiq v. Modi Sugar Mills*, held that “the most*



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imperative requisite of the word ‘distinctive’ when used in relation to the goods in respect of which a trade mark is registered, is that the trade mark should be adopted to distinguish the goods of the proprietor from the goods of the other persons”.

26. So long as others do not use the mark, or any similar mark, I am of the opinion that a finding of non-distinctiveness can ordinarily not be returned as, howsoever innocuous a mark may appear to be, if it is used only by one person, it would, in plain etymological terms, be distinctive. If, for example, one were to use the simple ! exclamation mark as a trade mark, could it be said that it lacks in distinctiveness? If no one else is using such a mark, I fail to see how it can be found not to be distinctive, as, whenever one refers to the ! mark in respect of that category of goods, the sole registrant of the mark would invariably come to mind.”

18. In **Muneer Ahmad v. Registrar of Trade Marks**, 2023 SCC OnLine Del 7345, this Court has held that:

“8. For Section 9(1)(a) to apply, therefore, learned Senior Examiner would



have had to hold that the device mark  *, seen as a whole, was lacking in distinctive character.*

9. There is no reference, in the impugned order, to any other device mark which is similar to the device mark of which the appellant sought registration. The lack of distinctive character, as per Section 9(1)(a), to render the mark in question incapable of distinguishing the goods or services of the applicant who seek its registration from those of others. In my opinion, such cases can fall into two categories. There may be marks which so inherently lacking in distinctiveness as to ipso facto be incapable of being used to distinguish the goods or service with respect to which they are used. One may readily envisage, in this category, commonly used words, such as “and”, “the”, “it”, or the like. The second category of marks which are “lacking in distinctiveness” would be those which are so commonly found or used, in connection with goods or services, as to be incapable to acting as source identifiers. For that, there must be specific reference, in the order of the Registrar, identifying the mark which is thus “common to the trade”.

10. The impugned order does not make reference to any such mark.”



19. It is well-settled from the above decisions clear that a finding of non-distinctiveness must fall into one of the following two categories – *first*, the Mark inherently lacks in distinctiveness such that *ipso facto* it is incapable of being used to distinguish the goods or service with respect to which it is used and *second*, the Mark is commonly found or used in connection with the relevant category of goods or services such that it is incapable of acting as a source identifier, and the order of the Registrar in that case has to identify the use of the Mark or any similar Mark by others.

20. Adverting to the merits of the present case, there is no reference in the Impugned Order to any such other Mark, which is similar to the Appellant's Pi logo, which is sought to be registered by the Appellant. Therefore, the Respondent's finding of non-distinctiveness of the Appellant's Pi logo is not preceded by any specific reference to other uses of the said Mark or any other similar Mark by other parties.

21. Further, Pi logo is clearly distinctive as it is a creative depiction of the mathematical symbol 'Pi', entailing a combination of golden and black multi-colored lines, while also being an artistic representation of the Appellant's brand/label 'Tarun Tahiliani'. In light of the same, the Respondent's observation in the Impugned Order that the Pi logo "*is devoid of any distinctive character, that is to say, not capable of distinguishing the goods or services of one person from those of another person because it is a common surname/personal name/...*" is misplaced and lacks merit. In fact, Pi logo does not lack distinctiveness as it can distinguish the goods and services in respect of which it is being used.



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22. Although the learned CGSC for the Respondent submitted that the Application be remanded back to the Respondent for consideration afresh, the learned Counsel for the Appellant did not agree to the said submission and pressed that the Appeal be decided on merits by this Court.

23. In view of the above, Impugned Order dated 31.12.2024 is set aside, with the direction to the Respondent that Application No. 5292417 shall proceed for advertisement and, thereafter, be proceeded in accordance with the provisions of the Trade Marks Act, 1999 and the Trade Marks Rules, 2017.

24. Let a copy of this Order be sent to the Registrar of Trade Marks for due notice and appropriate action. The present Appeal stands allowed in the aforesaid terms. Pending Applications stand disposed of.

TEJAS KARIA, J

AUGUST 22, 2025
'ST'